IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL

WRIT PETITION NO. 771 (MS) OF 2006

1. State of Uttaranchal through Secretary, Irrigation Department Government of Uttaranchal, Dehradun.
2. The Executive Engineer, Lakhwar Dam Construction Divisoin-2, Dakpathar, Dehradun. .....Petitioners.

Versus

1. Smt. Phoolwati, W/o Chhote Lal, Tons Colony Dakpathar, Dehradun.
2. The Addl. Labour Commissioner, Uttaranchal at Dehradun. .....Respondents.

Dated: 21.06.2006

Hon'ble Rajesh Tandon, J.

Heard Sardar Bhupendra Singh, Advocate for the petitioners and Sri M.C. Pant, Advocate for the respondent no.1.

By the present writ petition, the petitioners have prayed for a writ of certiorari quashing citation issued by the Tehsildar on 7th November, 2005 for recovery of Rs. 2,06,529/- along with 10% recovery charges (Annexure No. 5 to the writ petition).

Briefly stated, the dispute was raised by the respondent no. 1 and ultimately the matter was referred to the Labour Court under Section 4-K of the industrial Disputes Act. The labour Court has given the award on 22nd March, 2001.

The State of Uttaranchal has preferred a Writ Petition being Writ Petition No. 492 (ms) of 2003 challenging the said award. The writ petition was dismissed on 13th May, 2005.

Against that the respondent no.1 has initiated proceedings for recovery and a recovery citation has been issued against the petitioner regarding recovery proceedings. The petitioners have raised the objection that after the award was made, the petitioners have filed an affidavit relinquishing their claims and therefore, there are not entitled to proceed with the recovery proceedings.

There is no occasion for the stay of the citation or to issue a writ of certiorari in as much as award having been made 22.03.2001 and the same has been confirmed on 13.05.2005, no relief can be given to the petitioners.

Counsel for the petitioners has prayed that writ of mandamus be issued directing the respondent no. 2 to decide the application dated 20.2.2006 given by the petitioners.

So far as the award is concerned, the same having been confirmed, the finding concerned has not been challenged any subsequent admission on the part of the workman, cannot be treated as relinquishment on his part. However, the petitioner has already filed a representation (Annexure No. 8 to the writ petition) before the Addl. Labour Commissioner. The same may be disposed of in accordance with law. However, in case, the petitioner deposits the amount of back wages excluding 10% interest, the application filed by the petitioner shall be disposed of in accordance with law.

Subject to the aforesaid observations, the writ petition lacks merit and is dismissed for rest of the relief except disposal of the application.

No order as to costs.

(Rajesh Tandon, J.)

21.06.2006
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